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☐ SEPARATIONS (GENERAL)

a. INTRODUCTION. Staff employees and staff agents may separate from the Agency on their own initiative under the provisions ☐ or be separated by the Agency under the provisions ☐ In the event of the death of an employee, supervisors shall report the death immediately upon learning of it to the Office of Personnel. The Office of Personnel shall report the death to the Director of the Central Intelligence, assist the survivors, and arrange for the prompt settlement of all entitlements pertaining to Agency employment. The termination of employment of non-staff employees shall be governed by the terms of their contracts. The procedures for exit processing are given in ☐ Exit Processing for Separation or Extended Leave.

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b. AUTHORITY. Under the law, Agency employees do not have tenure and accordingly are not governed by the same procedures with respect to separation as members of the classified service. Key authorities are:

- (1) The Director of Central Intelligence is empowered to terminate the employment of any Agency employee when he determines that such action is necessary or advisable in the interests of the United States. Termination action is accomplished under the authority of section 102(c) of the National Security Act of 1947 quoted below:

Notwithstanding the provisions of Section 6 of the Act of August 24, 1912 (37 Stat. 555), or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or

advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission.

- (2) The Director of Central Intelligence as Head of the Central Intelligence Agency is empowered by the Central Intelligence Act of 1949 to terminate the employment of employees of the Central Intelligence Agency.
- (3) The National Security Act of 1947, as amended, specifically charges the Director of Central Intelligence with the protection of intelligence sources and methods. To this end, Section 6 of the Central Intelligence Agency Act of 1949, as amended, provides that the Agency shall be exempted from the provisions of any law which require the publication or disclosure of names, official titles, salaries, or numbers of personnel employed by the Agency. Inasmuch as normal government procedures with respect to termination of employees declared surplus require such disclosures, the Director of Central Intelligence has determined that the termination of such employees will be effected pursuant to the authority cited in a.(1) preceding. No employee declared surplus shall be entitled to consideration under procedures set forth in any other law or regulation, including the Veterans' Preference Act of 1944 (5 U.S.C. 851), as amended, or the United States Civil Service Commission regulations promulgated thereunder. Such termination shall not affect the right of the employee to seek or accept employment in any other department or agency of the

Government is declared eligible for such employment by the
United States Civil Service Commission.

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☐ VOLUNTARY SEPARATIONS. The provisions of this paragraph apply to those circumstances and procedures by which an employee voluntarily terminates employment with the Agency.

a. RESIGNATION

- (1) An employee who intends to resign from the Agency will, if possible, give at least two weeks' notice in writing.
- (2) The resignation shall be effective at the close of business on the last day the employee is present for duty except in the following circumstances:
 - (a) When an employee resigns while on leave of absence, he shall ordinarily specify the resignation date. However, a request to have a resignation retroactively effective will be subject to review by the Office of Personnel; but in no case may the resignation be effective earlier than the employee specifies. If the employee sets an effective date to include a period for which leave has not been approved, that period may be charged to annual leave or may be considered as absence without leave (AWOL) at the discretion of the Agency.
 - (b) When an employee resigns in circumstances where the granting of accrued annual or sick leave is proper, the resignation date may be extended to grant the unused leave.
 - (c) When an employee resigns to accept an appointment with another Federal agency without a break in service, the Office of Personnel shall coordinate the effective date of resignation with the other agency concerned.

- (3) An employee whose separation has been proposed may elect to resign at any time before the effective date of termination. However, supervisory officials shall not request an employee's resignation as an alternative to the initiation of a proposal that he be separated or advise him that failure to resign will necessarily result in termination of his employment.
- b. SEPARATIONS TO ENTER MILITARY SERVICE. When an employee enters military service under a program which provides restoration rights to his civilian employment, he shall be separated by administrative action in such a way as to preserve his legal entitlements. The Head of his Career Service shall supply the Office of Personnel with the required information about the position he is leaving. The Office of Personnel shall process the administrative action and advise the employee of his leave and retirement rights and his restoration rights under appropriate Federal statutes and Civil Service Commission regulations.
- c. RETIREMENT. The procedures for voluntary retirement under the Civil Service Retirement System and the CIA Retirement and Disability System are described under respectively.

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STAT INVOLUNTARY SEPARATION. As appropriate under statute or under the authority of the Director of Central Intelligence, an employee may be separated by action of the Agency for the reasons of mandatory retirement, decision not to continue employment of a probationer, finding of unsuitability, decision not to renew a contract, a finding that an employee is legally incompetent, a finding that an employee is surplus to the needs of the Agency, low standing in competitive ranking under the procedures for selection out, medical finding of disability, or failure to accept reassignment. An employee is entitled to retirement benefits, if otherwise qualified, unless guilty of offenses specified by statute. An employee not entitled to retirement benefits is entitled to separation compensation, under the provisions of unless separated for reasons attributable to misconduct, delinquency, or inefficiency.

STAT a. MANDATORY RETIREMENT. Agency policy for the retirement of employees under the Civil Service Retirement system is discussed in All participants in the CIA Retirement and Disability System shall be automatically separated from the Agency upon reaching the age of sixty.

STAT *during first year trial period*
b. SEPARATION OF PROBATIONER. Heads of Career Services are responsible for identifying employees under their jurisdiction who do not successfully complete the first year trial period. The purpose of the trial period is to permit assessment of the employee to determine that continued employment is in the best interests of both the employee and the Agency.

? (Separation need not reflect on the competence or conduct of the probationer.)
The Head of Career Service, or his representative, will notify the Director of Personnel before the close of the first-year trial period if he does not recommend continuation of the probationer's employment.

1 ✓ If, after review of the case, the ~~Director~~ Director of Personnel concurs with termination of probation, the employee shall be notified in writing of the reasons for his separation and the effective date of the action.
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- c. ~~TERMINATION OF CONTRACT.~~ The conditions governing renewal or nonrenewal of a contract for a nonstaff employee are governed by the terms of the contract.
- d. TERMINATION OF EMPLOYMENT FOR UNSUITABILITY. Termination of employment may be proposed on the grounds of unsuitability arising from such situations as:
- (a) failure to meet the work and efficiency requirements of the Agency;
 - (b) failure to meet Agency security standards;
 - (c) inability to meet Agency medical standards;
 - (d) abandonment of position;
 - (e) insubordination;
 - (f) inattention to duty;
 - (g) poor attendance;
 - (h) misuse of official funds;
 - (i) a criminal act;
 - (j) personal misconduct;
 - (k) other evidence of unsuitability.

For these purposes some key definitions are:

- (1) WORK AND EFFICIENCY. An employee who fails to meet the work and efficiency requirements of his Career Service or fails to adequately perform the duties of the position to which he is assigned should be considered for separation from that Career Service and possibly the Agency. If the Deputy Director or ^{Head of Independent Office} ~~Head of Career Service~~ having jurisdiction concludes that the individual should be separated from the particular Career Service, he will forward the case with

all pertinent documentation to the Director of Personnel for further processing as set forth in subparagraph __ below.

- (2) SECURITY AND MEDICAL STANDARDS. The Director of Security and the Director of Medical Services will make appropriate recommendations to the Director of Personnel when an employee does not meet Agency security or medical standards.
- (3) STANDARDS OF CONDUCT. The Agency standards of employee conduct are prescribed in Deputy Directors will ensure that appropriate officials take or initiate corrective or disciplinary action as necessary or, if warranted, forward a recommendation for separation to the Director of Personnel if an employee fails to meet Agency standards of conduct. Whenever the Director of Personnel is informed that an employee has failed to meet Agency standards of conduct, he will, if the matter is of a serious nature, review the case with the Deputy Director responsible for the employee's organization of assignment and the Head of the employee's Career Service, if different. He may, in coordination with the Deputy Director concerned, conduct an investigation if this is required. If the Director of Personnel concludes that the individual should be separated, he will forward his recommendation with appropriate documentation through the Deputy Director concerned with the employee's organization of assignment and the Head of the employee's Career Service, and if appropriate, to the Director of Central Intelligence.

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*Suggestion before
during investigation*

- e. DETERMINATION OF LEGAL INCOMPETENCE. An employee who is declared mentally incompetent by court action and who is not eligible for disability retirement shall be separated by the action, "Separation (Legal Incompetence)." The effective date of the separation shall be the date the Agency receives notification of court action, extended by any unused sick leave to the employee's credit. The Office of Personnel shall advise the legal guardian that he may submit a claim for unpaid salary, since payments cannot be made to the employee after the date of the court action declaring him incompetent.
- f. SEPARATION OF SURPLUS PERSONNEL. Should an employee be found surplus to the needs of his component, an effort shall be made to find suitable employment elsewhere in the Agency. Should this fail, the employee may be found surplus to the needs of the Agency and separated. The grounds for a finding of surplus are: a finding that the component is overstrength; a determination that there is no longer a requirement for the particular skills or qualifications possessed by the employee; or a reduction (or elimination) of the functions of the component producing a reduction in staff. [Separation as surplus should not reflect on the competence or conduct of the employee.] The competitive ranking of the employee may, in some cases, be a basis for determination of the priority to be attached to retention of the employee.]
- g. SELECTION OUT. It is the policy of the Agency to improve the overall level of employee performance by application of comparative ranking to identify those employees whose performance and potential are low in comparison with those of other employees of the same grade and occupational category. It is the responsibility of each Career Service

to identify those who rank in the bottom three percent of its members. Such low-ranked personnel are to be notified in accordance with procedures of the Career Service, though the head of the Career Service may remove individuals from the notification list if he deems there are extenuating circumstances. They are to be counseled so that they have an opportunity to improve performance. If they are again found ranked in the bottom three percent in a consecutive year, being yet ranked in the same grade and function, they must be notified again and, as appropriate, administrative action taken. Upon the review and determination by the head of the Career Service that separation is warranted, he will review the case with the Director of Personnel before initiating separation procedures.

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- h. DISABILITY. The conditions governing disability retirements are established in the regulations of the Civil Service Retirement System and, with respect to the CIA Retirement and Disability System, in

As a general rule, which has a few exceptions, the responsibility for initiating action lies with the employee.

- i. NON-ACCEPTANCE OF ASSIGNMENT. By Civil Service regulations, refusal to accept reassignment is a basis for dismissal for cause but the courts have recognized that an Agency may specify that it is basis for involuntary separation for retirement purposes. As family circumstances ~~change, as do~~ ^{other} ~~that~~ other factors that may influence willingness to accept reassignment, employees who are otherwise eligible for retirement benefits under involuntary separation are to be so separated for refusal to accept assignment.
- Needs
change*

- j. In addition to a. through i. above, employees may be terminated upon a finding by the Director of Central Intelligence that such termination is necessary and advisable in the interest of the Agency or for such other reasons as the Director may find will advance the efficiency of the Agency.

k. RESPONSIBILITIES

- (1) HEADS OF CAREER SERVICES. Heads of Career Services are responsible for identifying employees under their jurisdictions who should be considered for separation. They or their designated representatives will review each case with the Director of Personnel or his designated representative and, when deemed appropriate, recommend to the Director of Personnel termination of the individual's employment.
- (2) DIRECTOR OF SECURITY. When warranted by the information available to him, the Director of Security, after notifying the Deputy Director concerned, will recommend to the Director of Personnel the termination of the employment of an Agency employee and advise the Director of Personnel of the security factors bearing on the recommended separation. When the Director of Security considers the sensitivity of an individual case to be such that disclosure should initially be made only to the Director of Central Intelligence for his determination of the action to be taken, such procedure will be followed.
- (3) DIRECTOR OF MEDICAL SERVICES. When medical findings warrant, the Director of Medical Services will recommend to the Director of Personnel the disability retirement of an employee or the termination

of an individual's employment on grounds of medical disqualification. The Director of Medical Services will also advise the Director of Personnel of medical factors bearing on recommended separations.

- (4) DIRECTOR OF PERSONNEL. Subject to the consideration set forth in subparagraph ___, the Director of Personnel will ensure compliance with the procedures established by this paragraph and will take appropriate action or recommend action to the Director of Central Intelligence.

1. POLICY. Involuntary separations will normally be effected in accordance with the procedures suggested below. These should be followed insofar as they are practicable, but it is recognized that there may be circumstances in any one case that make these procedural steps impractical or undesirable, and in such situations the case will be handled in a manner conforming to those circumstances. Furthermore, in order to meet the exacting responsibilities placed upon the Agency and pursuant to his statutory authority, the Director of Central Intelligence may separate any employee immediately and without regard to any suggested procedural steps when he deems it necessary or advisable in the interests of the United States.

m. PROCEDURES

(1) SURPLUS

- (a) When a Deputy Director or Head of an Independent Office determines that an employee is excess to the manpower requirements of his directorate or independent office, he shall so declare the employee excess and notify the employee in writing of such action. In making this determination he shall take into consideration the current and anticipated

manpower requirements of his directorate or independent office as well as the employee's performance, nature of service, qualifications, and grade.

- (b) The Deputy Director or Head of an Independent Office shall forward any declaration made pursuant to subparagraph _____ above to the Director of Personnel who shall inform the employee in writing of his right to submit within 10 days a request to be heard orally by an appropriate officer of the Office of Personnel or to state in writing to the Director of Personnel why he should not be declared excess to his directorate or independent office or to provide any other information he deems relevant. After appropriate review including consideration of any statements or any information provided by the employee, the Director of Personnel may request the Deputy Director or Head of an Independent Office to reconsider the declaration of an employee as excess.
- (c) The Director of Personnel shall review the qualifications and background of an employee declared excess to the manpower requirements of a directorate or independent office with a view toward placing him elsewhere in the Agency at the same or different grade. As part of this review process, the employee shall be interviewed by an appropriate officer of the Office of Personnel.
- (d) If the Director of Personnel is unable to assign elsewhere in the Agency an employee who has been declared excess to the manpower requirements of a directorate or independent office,

he shall recommend to the Director of Central Intelligence that the Director of Central Intelligence (1) declare the employee surplus to the Agency; (2) terminate the employee's employment, utilizing his authority under section 102(c) of the National Security Act of 1947, as amended; and (3) establish the effective date of such termination. The Director of Personnel shall notify the employee in writing of this action and of the employee's right to present through the Director of Personnel to the Director of Central Intelligence within 10 days any information in writing concerning why his employment should not be terminated and any other information he deems relevant.

(e) Upon receipt of a recommendation by the Director of Personnel to declare an employee surplus to the Agency, to terminate his employment, and to establish the effective date of such termination, the Director of Central Intelligence may take one of the following actions:

- (1) Declare the employee surplus to the Agency, terminate his employment pursuant to section 102(c) of the National Security Act of 1947, as amended, and establish the effective date of such termination. Such effective date shall be not less than 30 days after the Director of Central Intelligence has taken action to terminate his employment.
- (2) Disapprove in whole or in part the recommendation of the Director of Personnel.

(f) The Director of Personnel shall notify the employee in writing of the decision of the Director of Central Intelligence.

(g) The provisions of this paragraph do not limit in any way the authority of the Director of Central Intelligence under section 102(c) of the National Security Act of 1947, as amended, and as implemented by [] Further, this paragraph shall not affect the responsibility and authority of the Director of Central Intelligence to remove, demote, or reassign any employee whose conduct or performance warrants such action. STAT

(2) OTHER INVOLUNTARY

(a) Whenever a Head of Career Service proposes to recommend the separation of an employee under his jurisdiction, [] he or his representative will first review the case with the Director of Personnel or his designated representative, [] who, if appropriate, will review the case with the Director of Security or the Director of Medical Services to identify relevant security or medical factors.

(b) When a case is referred to the Director of Personnel with a recommendation that an employee be separated, [] the Head of Career Service or his representative will advise the employee concerned and inform him of the reasons for the recommended separation. [] P/R
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- (c) Upon receipt of a recommendation from a Head of Career Service, or from any other Agency official authorized to make recommendations that an employee be separated, or on the basis of his own review of a personnel problem situation, the Director of Personnel or his designated representative will confirm to the employee that he is being considered for separation and will extend to him an opportunity to submit a written statement or to comment orally within 10 days.
- (d) If the Director of Personnel decides not to recommend termination of the individual's employment following his review of the case, he will consult the Head of the Career Service as to another course of action. If the Director of Personnel concludes that termination of the individual's employment is to be recommended, he will advise the employee of that fact and forward the case to the Director of Central Intelligence for decision. In this event, the Director of Personnel will also notify the individual that he may file a written appeal of the termination recommendation with the Director within 10 days.
- (e) Pursuant to his statutory authority, the Director may separate an employee immediately when he deems such action necessary or advisable in the interests of the United States. To the extent consistent with the interests of the United States, the procedures set forth in the subparagraphs immediately above will normally be followed, although in certain cases they may

be impracticable or inadvisable. The Director, therefore, may determine it to be in the interests of the United States to direct a termination without further action.

- (3) RESIGNATION IN LIEU OF TERMINATION. An employee whose separation has been recommended may elect to resign at any time before the effective date of separation. If an employee elects to resign after formal action has been initiated but submits his resignation effective at a future date, the Director of Personnel or his designee will determine, after consultation with appropriate officials, whether the best interests of the Agency require continuation of procedures to effect his involuntary separation at an earlier date. When an employee has resigned after initiation of formal action, but before completion of a review of his case, the Director of Personnel or his designee will obtain such information as may be necessary to document internal Agency records to reflect the circumstances of the resignation and to establish a basis for responding to subsequent inquiries about the individual's employment with the Agency.